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UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

In Re: RICHARD HERBERT WINTER and JOAN MARGARET WINTER, Debtors.	Case No. 2016-90770 Chapter 7 Case D.C.N. ADJ-03 Hearing Date: April 6, 2017 Time: 10:30 a.m. Place: 501 I Street, 6th Floor Courtroom 33 Sacramento, California 95814 Judge: Hon. Ronald H. Sargis

TRUSTEE'S MOTION FOR AUTHORITY TO SELL PROPERTY AT AUCTION

Michael D. McGranahan, (the "***Trustee***"), in his capacity as Chapter 7 Trustee for the bankruptcy estate of Richard Herbert Winter and Joan Margaret Winter (the "***Debtors***"), brings this motion to sell property which is property of the bankruptcy estate, which is set forth in paragraph 2, below.

1. On August 23, 2016, the Debtors filed a voluntary petition in this Court under Chapter 7 of Title 11, United States Code. The Trustee was appointed interim trustee in this case on August 23, 2016.

2. As of the date of the filing of the voluntary petition, the Debtors owned property (hereinafter referred to as the "***Property***") which is identified as:

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Description: 2010 Jeep Compass
VIN: 1J4NT4FAXAD504824

3. Trustee proposes that the Property shall be sold at auction by HUISMAN AUCTIONS, INC., (the "***Auctioneer***") during the next available auction upon approval of this motion for authority to sell. The sale shall take place in accordance with 11 U.S.C. section 363(b) and Federal Rules of Bankruptcy 6004.

4. The auction shall take place at:

13070 W. Stockton Blvd.
Galt, California 95632

5. The Trustee has entered into an auction agreement (the "***Auction Agreement***") subject to this Court's approval, with the Auctioneer, a completely unrelated third party, to conduct an auction for the sale of the Property in accordance with the terms specified herein. A copy the Auction Agreement between the Trustee and the Auctioneer is filed herewith as **EXHIBIT "A."** The Auctioneer incorporated in 1988 and is experienced in sale of vehicles. On or about even date herewith, the Trustee will file an application to employ the Auctioneer to conduct the auction of the Property pursuant to the Auction Agreement.

6. The Auctioneer's fee (commission) is set forth in the Auction Agreement (**EXHIBIT "A"** filed herewith). This motion also seeks authority to pay the Auctioneer a commission equal to 15% of the sale price of the Property in accordance with the Auction Agreement, filed herewith as **EXHIBIT "A."** Finally, this motion seeks authority for the Auctioneer to retain a buyer's premium equal to 10% of the sale price upon sale of the vehicle. The premium shall be paid by the buyer.

7. The Trustee estimates that the Property will sell for $10,000.00. Following is the estimated net proceeds to the estate:

Total Sale Price for all Property:	$10,000.00
Less: Auctioneer's Commission:	$1,500.00
Equals: Net Proceeds to Estate:	$8,500.00

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8. Authority for this motion to sell an asset of the estate is found in 11 U.S.C. § 363(b)(1): "The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate . . . " Selling vehicles, as is the case here, of this bankruptcy estate is not a transaction in the ordinary course of business.

9. Pursuant to the Auction Agreement, the Auctioneer will, within 30 days of the auction sale, turn over the "net" proceeds of sale to the Trustee, that is, the gross proceeds less auctioneer's fees. The Auctioneer will absorb towing and other ordinary costs.

10. Notice of the proposed sale of the Property shall be made pursuant to Federal Rule of Bankruptcy Procedure 6004(a). Notice is not required under subsection 7A of the Clayton Act; thus, the notice of provisions of 11 U.S.C. § 363(b)(2) do not apply. Notice of the proposed sale of the Property shall also be made pursuant to Local Rule 9014-1(f)(2).

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WHEREFORE, Michael D. McGranahan, acting in his capacity as trustee, respectfully prays for an order of this Court:

1. Authorizing the sale of the Property in accordance with the terms set forth in the Auction Agreement filed as EXHIBIT "A" herewith;

2. Authorizing the sale of the Property to the winning bidder at the public auction to be held by HUISMAN AUCTIONS, INC., during the next available auction upon approval of this motion for authority to sell, and in the manner as specified herein;

3. Authorizing, if the Property should be sold, commission to the Auctioneer equal to 15% of the sale price, in accordance with the Auction Agreement, filed herewith as EXHIBIT "A";

4. Authorizing, if the Property should be sold, the payment of a buyer's premium equal to 10% of the sale price, solely payable by the buyer, to the Auctioneer;

5. 6. That orders the Auctioneer to, within 30 days of the auction sale, turn over the "net" proceeds of sale to the Trustee, that is, the gross proceeds less auctioneer's fees;

6. Authorizing the Trustee to execute all documents which are necessary or convenient to complete the transactions; and

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7. That provides such further and other relief as deemed appropriate by the Court.

Dated: March 20, 2017

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/s/ Anthony D. Johnston
By:______________________________
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